IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.41169 of 2007

1. MANOJ KUMAR @ MANOJ KUMAR PRASAD
2. Guddu Kumar Prasad @ Guddu Kumar

Both are sons of Banarsi Lal Sah, both r/o village Sugauli, P.S. Sugauli, District East Champaran.

….. Petitioners

Versus

1. STATE OF BIHAR
2. Mostt. Meera Devi, W/o Late Heera Lal Pd., R/o village Hariharpur, P.S. Jadarpur, District – Gopalganj.

… Opp. Parties.

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2 17.12.2008 Heard Mr. Anil Kumar, learned counsel for the petitioners and Mr. Jharkhandi Upadhaya, learned A.P.P. for the State.

The two petitioners who have been arrayed as accused in Complaint Case No. 599 of 2006 are aggrieved by and have prayed for the quashing of the order dated 24.4.2007 passed by the learned Chief Judicial Magistrate, East Champaran at Motihari, wherein he has taken cognizance against both the petitioners under section 376 I.P.C.

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It has been submitted on behalf of the petitioners that they have been falsely implicated in this case by way of a counter blast to Sugauli P.S. Case No. 134 of 1996, which was lodged by the Sangita Devi, the sister of the petitioners, against the brothers, father and mother of the complainant.

This submissions by the learned counsel for the petitioners is his defence and also requires looking into facts and figures which is not within the ambit of the provisions of Section 482 Cr.P.C.

That apart the cognizance has been taken after holding inquiry under section 202 Cr.P.C. The law on this issue is by now

well settled and a reference may be made to the case of **Chandradeo Vs. Prokash Chandra, reported in AIR 1963 SC 1430.** It was observed therein that since the object of an inquiry under section 202 Cr.P.C. is to ascertain whether the allegations made in the complaint are intrinsically true, the Magistrate acting under section 203 Cr.P.C. has to satisfy himself that there is sufficient grounds for proceeding. In order to come to this conclusion he is entitled to consider the evidence taken by him or recorded by him in an inquiry under section 202 Cr.P.C. and he is not entitled to rely upon any other material besides this.

In view of the categoric decision of the Hon'ble Apex Court I find no merit in this application which is dismissed.

(Abhijit Sinha, J.)

Spd/-

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